

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

Educational Stability

This rule, previously entitled Educational Enrollment, has been amended in compliance with State Plan requirements under Title IV-E of the Social Security Act, as amended by Federal law. This revised rule requires the Department to coordinate efforts with education agencies to ensure educational stability for children in foster care in accordance with the Fostering Connections to Success Act (PL 110-351). This rule provides that the DCYF Service Plan includes assurances that the placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement and that the Department has coordinated with appropriate local educational agencies to allow the child to remain in the school in which the child is enrolled at the time of placement, or if remaining in such school is not in the best interests of the child, that the child is immediately and appropriately enrolled in a new school with all of the educational records of the child provided to the school. The previous version of this policy, refilled 1/5/2007, is superseded by this amended version.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State's website (www.sec.state.ri.us/ProposedRules/) and the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401 528-3641). Interested persons should submit data, views or written comments by December 24, 2010 to Sarah St. Jacques, Principal Human Services Policy and Systems Specialist, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 sarah.stjacques@dcyf.ri.gov.

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Educational ~~Enrollment~~Stability

Rhode Island Department of Children, Youth and Families
Policy: 700.0150

Effective Date: August 10, 1987

Revised Date: ~~August 26, 1991~~

Version: ~~23~~

The Department of Children, Youth and Families (DCYF) coordinates efforts with the RI Department of Education (RIDE) to ensure educational stability for the children in DCYF care in compliance with the Fostering Connections to Success Act (PL 110-351). PL 110-351 addresses the educational stability of the child in foster care by requiring that the DCYF Service Plan includes assurances that the placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement and that the Department has coordinated with appropriate local educational agencies to allow the child to remain in the school in which the child is enrolled at the time of placement, or if remaining in such school is not in the best interests of the child, that the child is immediately and appropriately enrolled in a new school with all of the educational records of the child provided to the school.

Rhode Island General Law (RIGL) 42-72-15 mandates that every child placed in the care of the Department of Children, Youth, and Families (DCYF) ~~shall be~~is entitled to a free, appropriate education. ~~Immediately upon the assumption of such care, DCYF shall provide~~s, in compliance with RIGL 42-72.4-1, for the immediate enrollment of each child in a school program.

~~R.I.G.L. 42-72.4-1 requires the city or town, in which the child currently resides, to immediately enroll the child in its school system. The receiving school system and the sending school system are required to immediately effect the transfer of the child's school records without any additional information, except as provided by the Department of Education. The Intra State Education Identification Card (DCYF #132A) is issued to every child in the Department's care between the ages of three (3) and eighteen (18) and any other child in care who wishes to be enrolled in public school. When a DCYF staff person or caretaker enrolls a child in a new school system, he or she must present the DCYF #132A to the receiving system.~~

~~In accordance with the Rules and Regulations for School Health Programs (RI6-21-SCHO) in Rhode Island, every student upon entering any public or non-public school in this state shall furnish the administrative head of the school acceptable evidence of having been immunized against diphtheria, tetanus, polio, measles, pertussis, rubella, mumps, hepatitis B and any other immunizations required by the Department of Health. In certain situations, telephone confirmation of the existence of immunization records is considered to be acceptable evidence of immunization.~~

During the time that the child remains in DCYF care, the Department and appropriate state and local education agencies ~~shall~~ coordinate efforts ~~in order~~ to provide for the timely initiation and continuation of educational services. In addition, the Individual with Disabilities Education Act (IDEA), sets forth the fundamental rights necessary to ensure that all students with disabilities receive free, appropriate public special education services consistent with 42-72-15.

The Department must ensure that a cooperative process is utilized to address the best interests and needs of the child with regard to school placements, school attendance and access to appropriate education services and required supports, including the provision of transportation services.

~~The following procedures are designed to assist DCYF staff to work in conjunction with the RI Department of Education (RIDE) to expedite school enrollment and provide the timely continuation of educational services to children in the care of DCYF.~~

Related Procedure

Educational Stability~~Enrollment~~

Educational ~~Stability~~ Enrollment

Procedure fFrom Policy 700.0150: ~~Educational Stability~~ Enrollment

A. Educational Stability

1. When a child requires out of home care the Department must make every effort to place the child in his or her community so that the child remains in the school of origin.
2. If an out of home placement cannot be located in the child's school district of origin, the Department must take into account the appropriateness of the student's current educational setting and the proximity of placement to that school.
3. The primary service worker and supervisor determine if remaining in the school of origin is in the child's best interests. The primary service worker and supervisor consider the following when determining appropriate school placement:
 - a. Expected length of child's current out of home placement
 - b. Child's permanency plan
 - c. Child's school transfer history
 - d. School programs and activities that address the unique needs or interests of the student
 - e. Child's preference
 - f. Student's ability to earn full academic credit, participate in sports or other extra-curricular activities, proceed to the next grade and graduation
 - g. Impact of the commute to the school of origin on the child
 - h. Where siblings of the child in care attend school
 - i. Potential safety issues
4. If it is determined that child should remain in the same school, worker contacts DCYF legal counsel for assistance in seeking authorization from RIDE to allow a child to remain in his or her school of origin.
 - a. RIGL 16-64-5 and 16-64-8 provide:
 - i. If a child is placed in a short term or series of short term placements, RIDE may designate the child's original city or town of residence as having continuing responsibility for the child's education for a period not greater than two (2) months unless an extension is granted by the commissioner.
 - ii. If a child changes his or her residence during the course of a semester the child must be allowed to complete the semester in his or her original city or town of residence.
 - iii. If the youth is a senior or about to enter his or her senior year the youth will be allowed to complete his or her senior year in his or her original city or town of residence.
 - b. The Department reimburses foster parent for transporting child to the school of origin.
5. If it is determined that remaining in the school of origin is not in the child's best interests, worker follows procedures outlined in B. below.

B. School Transfer

1. If it is determined that a child must transfer, he or she is immediately enrolled in the new school.
 - a. Each city or town is required by RIGL 42-72.4-1 to immediately enroll a child in its school system when the Intra State Education Identification Card (DCF #132A) is presented.
 - b. The primary worker and supervisor ensure that the child's educational records are transferred expeditiously.

- c. Rhode Island law, in accordance with the Rules and Regulations for School Health Programs promulgated by RIDE and the Department of Health, requires that every student upon entering any public or non-public school must provide acceptable evidence of immunizations. A student may be exempt from the immunization requirement for medical reasons or grounds of beliefs with appropriate authorization.
- 2. Transfer of School Records
 - a. RIGL 16-64-7 provides that employees of DCYF can direct the transfer of student records when the right to control a child's education is vested with the Department (refer to DCYF Policy 700.0115, Guardianship for Education).
 - b. If an educational surrogate parent has been appointed, both DCYF and the educational surrogate parent are authorized to direct the transfer of records (refer to DCYF Policy 700.0000, Educational Surrogate Parent Referral).
- 3. When a child's enrollment is denied or delayed for more than one (1) week from application for enrollment the Department will:
 - a. Contact the superintendent of the school system in question requesting immediate enrollment for the child.
 - b. Contact the RIDE School Approvals Unit for assistance if the child is not enrolled within forty-eight (48) hours of the superintendent's notification. A record of the contact is recorded on the Education Tracking Form (DCYF #142).
 - c. If the child is not immediately enrolled, DCYF Legal Counsel is notified in writing. This contact is documented on the DCYF #142 and in a Case Activity Note.
- 4. In the event a school system is reluctant to release the child's records to the receiving school without a signed parental release of information form, the worker or supervisor is responsible to do the following with assistance, if needed, from the DCYF Educational Support Services Unit:
 - a. Contact the superintendent of the school system in question and request assistance.
 - b. Contact the RIDE School Approvals Unit to request assistance if the records are not released within two (2) working days.
 - c. Contact the receiving school system after five (5) working days from contacting the School Approvals Unit to confirm receipt of the school record.
 - d. Notify DCYF Legal Counsel in writing if the record is not released within five (5) working days of the School Approvals Unit's notification.
 - e. Document the school enrollment efforts in a Case Activity Note.
- 5. The worker ensures that the receiving school obtains the child's educational records. If a school system agrees to forward student records to a receiving school but the records are not sent expeditiously the worker will:
 - a. Contact the receiving school system seven (7) working days after the initial request to determine the status of the student's records.
 - b. Contact the school principal of the sending school regarding the delay if the records have not been forwarded.
- 6. For a child in care with a disability or a suspected disability, in accordance with RIGL 42-72-15 and DCYF Policy 700.0000, Educational Surrogate Parent Referral, the Department will:
 - a. Assess the need for an educational surrogate parent referral and if necessary, make a referral to RIDE.
 - b. Ensure that the school department seeks parental or educational surrogate parent's consent for a pre-placement evaluation if the school

department finds that the referral material indicates the need for evaluation.

- i. If a parent who maintains educational guardianship refuses to give his or her consent, the school department has the option of utilizing hearing procedures to gain permission to evaluate.
 - ii. The primary service worker documents the school department's intervention in the absence of parental consent in a Case Activity Note.
 - iii. After the evaluation process has been completed and if the child is found to be eligible for special education, the school system develops an Individual Education Plan (IEP) which must be updated annually. Only a parent or educational surrogate parent can sign an IEP to approve and initiate special education services.
 - c. Ensure the child is placed by the school system in an interim program comparable to his or her current class placement before the new IEP is finalized even if the receiving school system or the educational surrogate parent believes that additional information or evaluation is needed. If the child is not immediately enrolled in an equivalent program, the Department will:
 - i. Contact the superintendent of the school in question seeking immediate enrollment of the child.
 - ii. Contact the DCYF Educational Services Support Unit who will contact the Special Education Unit at RIDE to ask for their intervention. A record of this request is made on the Education Tracking Form (DCYF #142) by the Educational Services Support Unit.
 - d. Ensure that the receiving school system does not require an IEP meeting to develop a new IEP if the following conditions exist:
 - i. A copy of the current IEP is available (within one (1) year).
 - ii. The parent or educational surrogate parent is satisfied with the IEP.
7. School Transfer Follow-Up
- a. The primary service worker contacts the receiving school within twenty-one (21) working days from the date of enrollment to review the child's transition into the new school system. This contact is documented in a Case Activity Note.
 - b. The primary service worker contacts the DCYF Educational Services Coordinator whenever there is a change in the educational, residential, legal or placement status of the child via a DCYF #061. This must be done as soon as a change is planned to ensure a seamless transition.
 - c. The primary service worker or the DCYF Educational Services Support Unit notifies the Department of Education and the educational surrogate parent of the change in case status.

A. Transfer of School Records

Many children placed out of the biological home may need to change school locations. The timely transfer of school records is an important issue which demands the attention of the primary service worker. Delays encountered in the transfer of records are common. Such delays, however, should not impede enrollment since the transfer of records cannot be made a legal prerequisite to school attendance.

1. Rhode Island General Law 16-64-7 states that employees of DCYF can direct the transfer of pupil records when the right to control a child's education is vested with DCYF under RIGL 33-14.1-2. If an educational surrogate parent has been appointed, both

~~DCYF and the educational surrogate parent are authorized to direct the transfer of records. (Please refer to Policy 700.000 Educational Surrogate Parent Referral.)~~

~~2.The primary service worker shall undertake the transfer of educational records immediately upon knowledge of a possible change in school placement by presenting the Intra State Education Identification Card (DCYF# 132A) to the receiving school.~~

~~3.If the school system refuses to release the child's records to the receiving school without a signed parental release of information form, the following steps shall commence:~~

~~a.The primary service worker shall immediately contact his/her supervisor to inform him/her of the problem.~~

~~b.The supervisor shall immediately contact the superintendent of the school system in question by phone and request his/her intervention.~~

~~c.If the records are still not released within two (2) working days, the supervisor shall contact the DCYF Educational Services Coordinator who will record the information for future reference (DCYF# 142) and immediately contact the School Approvals Unit of the Rhode Island Department of Education by phone to ask for assistance.~~

~~d.The DCYF Educational Services Coordinator shall contact the receiving school system after five (5) working days from contacting the School Approvals Unit to confirm receipt of the school record.~~

~~e.If the record is not released within five (5) working days of the School Approvals Unit's notification, DCYF Legal Counsel shall be notified in writing by the DCYF Educational Services Coordinator.~~

~~f.The primary service worker shall document the above process in a Case Activity Note.~~

~~4.If a school system agrees to forward pupil records to a receiving school system but the records are not sent in a timely fashion, the following steps shall commence:~~

~~a.The primary service worker shall contact the receiving school system seven (7) working days after the initial request to see if they have received the records.~~

~~b.If the records have not been forwarded, the primary service worker shall contact the school principal of the sending school by phone to inform him/her of the delay.~~

~~c.If the records are still not made available or forwarded within three (3) days, the primary service worker shall notify his/her immediate supervisor to inform him/her of the problem.~~

~~d.DCYF staff shall then proceed with the course of action specified in Section A, Subsection 3, a-f above.~~

~~5.Although some foster parents and residential staff have been successful in obtaining school records, they are not legally empowered to do so. This responsibility rests with the primary service worker.~~

B.Enrolling a Child in a New School District

~~1.Whenever a child is placed in a residential setting for a planned period of more than twenty-four (24) hours, school enrollment shall be sought.~~

~~a.Each city or town is required by R.I.G.L. 42-72.4-1 to immediately enroll a child in its school system when the Intra State Education Identification Card (DCF #132A) is presented.~~

~~b.Rhode Island law, in accordance with the Rules and Regulations for School Health Programs promulgated by the Department of Elementary and Secondary Education and the Department of Health, requires that every student upon entering any public or non-public school shall furnish acceptable evidence having been immunized against diphtheria, tetanus, polio, measles, pertussis, rubella, mumps, hepatitis B and any other immunizations required by the Department of Health. A student maybe exempt from the immunization requirement for medical reasons (signed exemption by licensed physician) or grounds of beliefs (signed exemption by parent).~~

~~2.Worker or caretaker, who enrolls the child in school, presents the DCYF#132A.~~

~~a. The DCYF #132A is stored in the Child's Health and Education Passport and a copy is filed in the child's case record. Prior to enrolling the child in school, the worker updates the information on the DCYF #132A. Blank copies of the DCYF #132A are available in the divisions.~~

~~b. School enrollment can be performed by the parent(s) (if involved), the foster parent(s), group home/shelter staff, or the caseworker. In certain cases foster parent(s) or residential staff may have established contacts with local school officials that could expedite the enrollment process. This is of benefit and should be utilized. It is, however, the primary service worker's ultimate responsibility to seek enrollment for the child, monitor the process, and intervene if a problem arises.~~

~~c. If a case is transferred between workers in DCYF, clear communication is imperative as to the current status of the record transfer/enrollment process:~~

~~i. The sending worker shall contact the receiving worker by phone to update him/her of the educational status.~~

~~ii. The receiving worker shall notify the residential provider and the school system(s) by phone of the change in worker and to review the educational status.~~

~~3. Ordinarily a child should be enrolled in the school system of the town where the group home, child caring facility, or foster home is located. In certain cases RIGL 16-64-5 allows the Director of DCYF to make a request of the Commissioner of Education to designate the child's original town of residence to continue to provide a child's education. This request should be made when a child in DCYF care is expected to be subject to short-term placement(s). If the logistics are feasible (distance/transportation), the caseworker shall consider this option and discuss it with the Department Educational Services Coordinator. Such an agreement is effective for a period not greater than two (2) months unless an extension is granted by the Commissioner:~~

~~a. If applicable, the Educational Services Coordinator shall notify the Director of this request and prepare a letter for the Director's signature to be sent to the Commissioner of Education.~~

~~b. If there is a refusal of a school system to continue with a child's education under 16-64-5, the Commissioner will conduct a hearing and shall have the ability to issue an interim order pending the results.~~

~~4. If a caseworker has a child's enrollment denied or delayed for more than one (1) week from application for enrollment, the following process shall take place:~~

~~a. The caseworker shall contact his/her immediate supervisor who shall contact the superintendent of the school system in question by phone requesting immediate enrollment for the child.~~

~~b. If the child is not enrolled within forty-eight (48) hours of the superintendent's notification, the DCYF Educational Services Coordinator shall be contacted by the supervisor. The Educational Services Coordinator shall contact the DOE School Approvals Unit by phone to ask for assistance. A record of the contact shall be recorded by the Educational Services Coordinator on the Education Tracking Form (DCYF #142).~~

~~c. If the child is not then immediately enrolled, the Educational Services Coordinator shall notify the Department Legal Counsel in writing, noting this contact on the DCYF #142.~~

~~d. The primary service worker shall document the above process in a Case Activity Note.~~

~~C. School Enrollment of Children with Disabilities~~

~~1. RIGL 42-72-15 concerning school enrollment applies to students with disabilities as well as those suspected of having a disability. In addition, a child eligible for special education can access this education upon attainment of his/her third birthday and until he/she has completed high school or reaches the age of twenty-one (21), whichever comes first. A student with a disability is defined as a child who is behaviorally disordered, mentally retarded, physically handicapped, multi-handicapped, and/or learning disabled.~~

~~2. If a child has a disability, the following shall commence:~~

~~a. If not already assigned, the primary service worker shall assess the need for an educational surrogate parent referral (See Policy 700.0000 Educational Surrogate Parent Referral).~~

- ~~b.If the child is moving to a new school, records (including the Individual Education Plan (IEP) shall be transferred). If an Educational Surrogate Parent has been assigned, he/she is authorized to transfer the records.~~
- ~~c.The child shall be enrolled in the receiving school system.~~

~~3.It is not necessary for a receiving school system to conduct an IEP meeting to develop a new IEP if the following conditions exist:~~

- ~~a.A copy of the current IEP is available (within one (1) year)~~
- ~~b.The parent/educational surrogate parent is satisfied with the IEP~~
- ~~c.The receiving school system determines that the current IEP is appropriate and can be implemented.~~

~~4.If the receiving school system or the educational surrogate parent believes that additional information or evaluation is needed before a final placement, the child should be placed by the school system in an interim program before the new IEP is finalized.~~

D.School Enrollment of Children Suspected of Having a Disability

~~1.If a caseworker suspects that a child in his/her caseload has a disability, the following procedure shall be followed:~~

- ~~a.The referral for an educational surrogate parent to the Department of Education shall be addressed.~~
- ~~b.School records shall be transferred.~~
- ~~c.State regulations state that a referral for evaluation of a student suspected of having a disability can be made to the Special Education Director of the local Education Authority by anyone having professional dealings with the child. Within DCYF this referral shall be made by the primary service worker after consulting with the DCYF Educational Services Coordinator. (If the child has a parent(s) that is accessible and cooperative, the worker should support and aid the parent(s) in making a referral.) At the time the primary service worker requests this referral form, it is important to ascertain who is the person designated within the school system to receive the referral.~~
- ~~d.The primary service worker shall forward this referral to the Director of Special Education in the local Education Authority. The Education Information Sheet (DCYF#061) should be forwarded to the DCYF Educational Services Coordinator at the same time if the child is eligible for an educational surrogate parent.~~
- ~~e.When the Special Education Director receives the referral, the school system must follow specific timelines and procedures to evaluate the child and notify the educational guardian of the findings.~~

~~2.If the school department finds that the referral material indicates the need for evaluation, the school department will seek the parent's(s)/educational surrogate parent's consent for a pre-placement evaluation:~~

- ~~a.If a parent(s) who maintains educational guardianship refuses to give his/her (their) consent, the school department has the option of utilizing hearing procedures to gain permission to evaluate.~~
- ~~b.The primary service worker shall document in a Case Activity Note the school department's reported intervention in the absence of parental consent.~~

~~3.If educational guardianship has been vested in DCYF, if a child is in need of evaluation, and if the appointment of an educational surrogate parent is pending, the primary service worker shall contact the DCYF Educational Services Coordinator by phone:~~

- ~~a.The DCYF Educational Services Coordinator shall contact the DOE Educational Surrogate Parent Coordinator by phone to attempt to expedite the appointment.~~
- ~~b.If an educational surrogate parent has not been assigned within one (1) week from contacting DOE, the DCYF Educational Services Coordinator shall record the reason the educational~~

~~surrogate parent advocate was not assigned (DCYF #141) and shall contact the DCYF Legal Counsel in writing notifying that office of the delay in the evaluation process.~~

~~4. After the evaluation process has been completed and if the child is found to be eligible for Special Education, the school system will develop an Individual Education Plan (IEP). This is the educational blueprint outlining the services to be provided. The IEP must be updated annually. Only a parent(s) or educational surrogate parent can sign an IEP to approve and initiate special education services.~~

~~5. During the school referral, evaluation, and IEP process, the child should remain in his/her current class placement or a comparable placement in the receiving school system.~~

~~6. While regulations state that an IEP must be in effect before special education is provided, this requirement does not prevent a school system from placing a child in an interim temporary placement as part of the evaluation process before an IEP is finalized. If a school system delays enrollment until the evaluation process has been completed and an IEP developed, the school system is in violation of the compulsory education law and RIGL 42-72-15. If confronted with this problem, the following process shall be initiated:~~

- ~~a. The primary service worker shall immediately contact his/her immediate supervisor to inform him/her that enrollment has been denied.~~
- ~~b. The supervisor shall immediately contact the superintendent of the school in question by phone seeking immediate enrollment of the child.~~
- ~~c. If enrollment continues to be denied, the supervisor shall contact the DCYF Educational Services Coordinator by phone who shall contact the Special Education Unit at the Department of Education to ask for their intervention. A record of this request is made on the Education Tracking Form (DCYF #142) by the Educational Services Coordinator.~~

~~E. Case Follow Up~~

~~1. The primary service worker shall contact the receiving school within twenty-one (21) working days from the date of enrollment to review the child's transition into the new school system. This contact shall be documented in a Case Activity Note.~~

~~2. The primary service worker shall contact the DCYF Educational Services Coordinator whenever there is a change in the educational, residential, legal, or placement status of the child via a DCYF #061. This shall be done as soon as a change is planned to afford a systematic transition.~~

~~3. The DCYF Educational Services Coordinator shall notify the Department of Education and the educational surrogate parent of the change in case status.~~